(66)

HIGH COURT OF CHHATTISGARH, BILASPUR

Cr.M.P. No. 202 of 2006

Petitioner	Rajpal Sahu S/o Bhandari Sahu, Aged about 45 years, R/o Village – Pampapur, P.S. & Tehsil – Surajpur, Dist : Sarguja – (C.G.)
	Versus
Respondent	Smt. Shanti So called W/o Rajpal Sahu, Aged about 43 years, R/o Village- Pampapur, P.S. & Tehsil – Surajpur, Dist : Sarguja – (C.G.)
	Presently residing at Village Kaushalpur, P.S. – Ramanuj Nagar, Tehsil – Surajpur, Dist : Sarguja-(C.G.)

Appearance:

Shri Shrawan Agrawal, counsel for the petitioner.
None for the respondent.

ORAL ORDER
(04.04.2007)

Sunil Kumar Sinha, J.

Heard on admission.

This petition is directed against the order dated 19.9.2006 passed in Criminal Revision No. 175/2006 by the IInd Additional Sessions Judge (FTC), Surajpur, District- Sarguja (C.G.). By the impugned order, the learned Additional Sessions Judge has declined to interfere with the two orders passed by the Magistrate in Misc. Criminal Case No. 205/2000 on 12.1.2001 and 01.07.2006.

The brief facts are that the respondent filed an application for grant of monthly maintenance against the petitioner under Section 125 of Cr.P.C. before the learned Magistrate, which was registered as Misc. Case No. 205/2000. The said case came up for hearing on 12.1.2001, as both the parties i.e. petitioner and respondent had filed a joint compromise application stating that the proceeding be dropped on certain conditions, on which the parties had agreed. Perusal of order dated 12.1.2001 (Annexure-P/3) would show that it was stated in the joint application that the respondent was legally wedded wife of the petitioner and the petitioner will never misbehave with her in future. Rather, he

will maintain her as a wife along with his second wife namely – Anjani and he will fulfill all the requirements of the respondent. It was also agreed that if on the ground of misbehavior of the petitioner, the respondent shall be constrained to live separately, the petitioner will pay to her a maintenance amount of Rs.1,000/- per month. This compromise was allowed and ultimately, the proceedings were finally dropped. This order was never challenged by the petitioner earlier to the filing of criminal revision No. 175/2006.

It appears that on account of certain cause of action pertaining to the order dated 12.01.2001, the respondent filed an application under Section 125 (3) Cr.P.C. for awarding agreed amount of maintenance to her on the basis of said order as according to her, the petitioner was not maintaining her. The trial Court recorded the evidence of various witnesses produced by both the parties and ultimately recorded a finding by order dated 01.07.2006 that after the compromise, the petitioner has driven out the respondent from his house and he is not maintaining her, therefore, the respondent would be entitled to receive the aforesaid amount from the petitioner. The petitioner had challenged both these orders before the revisional Court.

So far as challenge to the order dated 12.01.2001 is concerned, learned revisional Court held vide para-4 that the petitioner has not setforth any ground explaining the inordinate delay of about 6 years in filing the aforesaid revision against the order dated 12.01.2001 which was filed on 24.7.2006, therefore, the revision against the aforesaid order was hopelessly barred. About other order dated 01.7.2006, it is said that it was order under Section 125 (3) Cr.P.C. in execution case filed by the respondent, therefore, it was not required to be interfered with in the said criminal revision because the earlier order dated 12.01.2001 was not set aside by any competent Court nor any civil proceeding was filed against the said order.

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I have perused the orders passed by two Courts below and have also perused the records of the Cr.M.P. No. 202/2006.

Apparently, the order dated 12.01.2001 was never challenged by the petitioner before any competent Court and the same became final and ultimately when in the execution proceeding, another order was passed, it was jointly challenged before the revisional Court and the revisional Court has rightly taken a view that the revision filed against the aforesaid order was hopelessly barred. Since the order in original proceeding was operating in favour of the respondent and in the proceeding under Section 125 (3) Cr.P.C., the Magistrate after recording the evidence, has come to the conclusion that there were reasons with the respondent to live separately from the petitioner as she was driven out from the house of the petitioner after entering into a compromise between them, therefore, she was entitled to get the amount.

The provisions of Section 125 of Cr.P.C. are enacted for social justice and especially to protect the women and children as also the old and infirm poor parents and falls within the constitutional sweep of Article 15 (3) reinforced by Article 39 of the Constitution. The provision gives effect to natural and fundamental duty of a man to maintain his wife, children and parents so long as they are unable to maintain themselves.

I do not find any illegality in the orders passed by the two Courts below warranting interference by this Court under Section 482 of the Code of Criminal Procedure.

The Criminal Miscellaneous Petition has no merits and the same is dismissed at the motion stage itself.

In consequence, M.(Cri.)P. 2594/2006 for grant of interim stay also stands disposed of.

Sd/-
SUNIL KUMAR SINHA
Judge

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